

### REMARKS

Prior to this amendment, claims 16-20 and 36-65 were pending in this application. Claims 16-20 have been allowed. Claims 36-44, 47-51, 54, 56 and 57 have been canceled without prejudice or disclaimer. Claims 60, 64, and 65 have been amended to eliminate dependency on Claim 54. No new matter has been introduced by way of these amendments. Following entry of this amendment claims 16-20, 45, 46, 52, 53, 55 and 58-65 will be pending.

#### Rejection under 35 U.S.C. § 112, first paragraph

Claims 36-44, 47-51, 54 and 60-65 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully traverse the rejection for the reasons of record.

However in the interest of furthering prosecution, Applicants have canceled Claims 36-44, 47-51, and 54 without prejudice or disclaimer and amended claims 60-65. Applicants reserve the right to pursue claims of this scope in further applications.

#### Obviousness-Type Double Patenting Rejection

Claims 36-65 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 27-39 of co-pending Application No. 09/748,706 in view of Walt *et al.* (Patent No. 6,023,540).

Without admitting the propriety of the rejection and in the interest of furthering prosecution, a terminal disclaimer, listing co-pending Application No. 09/748,706, is submitted herewith. Accordingly, Applicants respectfully request withdrawal of the double patenting rejection based on co-pending Application No. 09/748,706.

Application Serial No.: 09/344,526  
Filing Date: June 24, 1999

Express Mail No. EV 298967105 US

### CONCLUSION

Please direct further questions in connection with this Application to the undersigned at (415) 781-1989.

Respectfully submitted,  
DORSEY & WHITNEY LLP

Dated: February 19, 2004  
Customer Number: 32940  
Dorsey & Whitney LLP  
Four Embarcadero Center, Suite 3400  
San Francisco, CA 94111-4187  
Telephone: (415) 781-1989  
Facsimile: (415) 398-3249

BY: \_\_\_\_\_

David C. Foster

David C. Foster, Reg. No. 44,685 for  
Robin M. Silva, Reg. No. 38,304  
Filed under 37 C.F.R. § 1.34(a)